United Nations S/2006/402

Security Council

Distr.: General
16 June 2006

Original: English

Letter dated 15 June 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Japan submitted pursuant to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

06-39518 (E) 070706

Annex

Note verbale dated 2 June 2006 from the Permanent Mission of Japan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of Japan to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and, pursuant to the provisions of resolution 1624 (2005) and in response to the latter's letter dated 4 April 2006, has the honour to transmit herewith the information on the Government of Japan's implementation of those provisions (see enclosure).

Enclosure

Implementation of United Nations Security Council resolution 1624: report of Japan in response to the questions of the Counter-Terrorism Committee

Sub-paragraph 1.1

What measures does Japan have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

In Japan, when an act of terrorism which also constitutes a criminal offence such as homicide is committed, the incitement of such an act can be prosecuted either as an "incitement", as provided in Article 61 of the Penal Code, or as an "accessoryship", as provided in Article 62 of the Code, depending on the facts of the case.

In addition, with respect to specific acts that are closely related to terrorist acts, several provisions exist under Japanese law that specifically prohibit their incitement. Article 38 of the Subversive Activities Prevention Act prohibits the incitement of insurrection, instigation of foreign aggression or assistance to an enemy. Articles 39 and 40 of the same act prohibit the incitement of such offences as arson, homicide, public disturbance and endangering traffic, with the purpose of promoting, supporting or objecting to a political ideology or measure. Article 4 of the Explosives Control Act prohibits the incitement of the use of explosives with the purpose of disrupting public safety or harming another's body or property.

The Subversive Activities Prevention Act provides that, upon the request of the Director-General of the Public Security Intelligence Agency (PSIA), the Public Security Examination Commission, which is part of the Ministry of Justice but independent of the Minister, shall impose regulations and control measures on groups that have committed, not as individuals but as part of a unified organization, terroristic subversive activities, and can be expected to continue to commit such acts of violence in future. These regulations are intended to limit the sphere of activities of such groups by prohibiting them from holding public gatherings or printing and distributing flyers, or to authorize their disbandment.

Sub-paragraph 1.2

What measures does Japan take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

As far as criminal procedure is concerned, Japan, having ratified all of the twelve universal conventions and protocols against terrorism, has established extensive jurisdiction over those activities regarded as terrorist acts under the conventions, with the aim of denying safe haven to those who commit such acts and facilitating their extradition or prosecution.

In addition, when the incitement of a terrorist act as described under sub-paragraph 1-1 above is prosecuted as "incitement" under Article 61 or "accessoryship" under Article 62 of the Penal Code, the offender can be extradited or prosecuted.

Since the terrorist attacks in the United States on 11 September 2001, Japanese police have enhanced their intelligence gathering and analysis related to terrorism, working in close coordination with domestic and foreign security intelligence agencies and other relevant organizations. The police are to respond strictly to unlawful conduct relating to incitement of terrorist acts by applying the Penal Code or other applicable laws.

Sub-paragraph 1.3

How does Japan cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

The areas in which the Immigration Bureau currently cooperates with other States in strengthening the security of international borders with a view to preventing those guilty of incitement to commit terrorist acts from entering the territory of Japan are as follows:

(1) Since 1987, the Immigration Bureau has been inviting the executive officers of the immigration control authorities of Asian countries and regions to annual seminars and providing them with opportunities to exchange opinions and information on how to balance stricter immigration control, including denying freedom of movement to terrorists, with the need to facilitate smoother human movement. Since 1995, the Immigration Bureau has been inviting experts engaged in examining fraudulent documents in Asian countries and regions to the Seminars on Document Examination, where we promote effective technology transfer and information exchange, while making efforts to exclude foreign nationals attempting to enter Japan illegally through the use of fraudulent documents.

(2) Since April 2005, we have had a document adviser assigned to the international airport in Thailand, in order to advise airline staff and others on the authenticity of passports.

(3) Since January 2005, the Ministry of Justice, the National Police Agency and the Ministry of Finance have been implementing jointly the Advance Passenger Information System (APIS). This system receives information on passengers in electronic form which has been obtained by airline companies prior to the completion of boarding procedures, and then automatically crosschecks the information against the databases of suspect persons in the possession of the authorities concerned.

(4) Since December 2005, under the Immigration Control and Refugee Recognition Act, the Immigration Bureau has required carriers to check the passports of their passengers, and imposes

penalties (of up to \500,000) on airlines if they board passengers without a valid passport. This contributes to preventing terrorists and other illegal immigrants from using fraudulent documents to enter Japan illegally.

The Japanese police are cooperating closely with foreign security agencies and are providing information to relevant authorities at international seaports and airports, and thus contributing to tighter border control.

Since November 2004, Japan has been providing ICPO with lost and stolen passport information (passport number, date of issue and date of lapse), in order to deter the unauthorized use of passports by persons involved in transnational organized crime, including terrorists and illegal immigrants.

Japan began issuing the e-passport on 20 March 2006, in order to deter the use of false or altered passports, impersonation, international organized crime and illegal international border crossing.

Sub-paragraph 1.4

What international efforts is Japan participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

Japan has been and will continue to be an initiator and an active participant in a variety of efforts to promote dialogue and broader understanding among civilizations, such as the World Civilization Forum 2005; the Seminars on the Dialogue among Civilizations: between Japan and the Islamic World; the Middle East Cultural Exchange and Dialogue Mission; the Japan-Arab Dialogue Forum; and the ASEM process, including ASEM Culture Ministers' Meeting and ASEM Interfaith Dialogue.

In particular, the World Civilizations Forum 2005 was held based on the suggestion made by Prime Minister Junichiro Koizumi at the Asian-African Summit. At the Forum, leading experts representing diverse religious groups and cultures discussed how to create a new paradigm for the world in the 21st century from various perspectives.

Sub-paragraph 1.5

What steps is Japan taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

No credible information regarding incitement of terrorist acts or subversion of educational, cultural and religious institutions by terrorists in Japan has come to our attention. However, it is known that a person linked to Al-Qaida previously entered and left Japan illegally on multiple occasions. Since we cannot rule out the possibility that Japan is a target of international terrorists, the police continue to take every possible measure to collect intelligence on, and to prevent, acts of

terrorism. The police have been implementing appropriate security measures tailored to each situation based on analysis of relevant information gathered at facilities around Japan, including educational, cultural and religious institutions.

To prevent terrorist attacks, the Public Security Intelligence Agency has reinforced its efforts to promote the Action Plan for Prevention of Terrorism adopted by the Japanese Government on 10 December 2004. The Agency has also enhanced its external capabilities in the collection and analysis of information on international terrorist movements, while maintaining close relationships with foreign intelligence agencies and intensifying exchange of intelligence with them, in order to gain a clearer understanding of the activities of international terrorist organizations. At the same time, the Agency has made efforts to enhance its internal capacity for investigating individuals and groups suspected of having connections with terrorist organizations, collecting information on the flow of goods and money and conducting intelligence activities. In its endeavours, the Agency collects pertinent information, including information relevant to this question, and disseminates intelligence to relevant organizations, as required.

Sub-paragraph 1.6

What is Japan doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law?

Japan makes full efforts to ensure that all of the aforementioned measures comply with its obligations under international law. In accordance with Article 98, paragraph 2 of the Constitution, the provisions of treaties, including international human rights conventions, concluded by the Japanese Government, are to be faithfully observed.

Japan is implementing refugee protection and is developing an asylum system under the legal framework created in accordance with the Convention relating to the Status of Refugees and its Protocol. In addition, Japan is endeavouring to put UNHCR's "Agenda for Protection" and other relevant conclusions of the UNHCR Executive Committee into practice within the scope possible.